

BEFORE THE
POSTAL RATE COMMISSION
WASHINGTON, D.C. 20266-0001

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POSTAL RATE COMMISSION
OFFICE OF THE SECRETARY

Complaint of Throop Borough

Docket No. C99-5

MOTION OF UNITED STATES POSTAL SERVICE
TO DISMISS COMPLAINT
(August 18, 1999)

INTRODUCTION AND BACKGROUND

On July 19, 1999, the Postal Rate Commission received a document captioned "Complaint of Throop Borough". By letter dated that same day, the Office of the Secretary, Postal Rate Commission, designated the docket number above and advised the General Counsel, United States Postal Service, of the complaint's filing under title 39, United States Code § 3662.

Complainant, which describes itself as "a Municipal Corporation organized and existing under the laws of the Commonwealth of Pennsylvania" (Complaint at 1), alleges that it is currently served by two ZIP Codes, 16512 for **Dunmore**, Pennsylvania, and 18447 for Olyphant, Pennsylvania, and that these ZIP Codes "do not accommodate the service needs of Complainant." Complaint at 1-2. In particular, according to Complainants, mail has been unduly delayed because it is first received in nearby communities with some of the same street names; emergency vehicles from nearby communities have been called to respond to Throop's emergencies, because of confusion resulting from the ZIP Codes; and correspondence from colleges, businesses, and government agencies label their mail to Throop using another local community. Complaint at 2-3.

Complainant states that it requested the Postal Service to assign an exclusive ZIP Code (18511) to Throop. Complaint at 2. The Postal Service denied the request despite support for that ZIP Code from a large majority of Throop's survey respondents, and, Complainant alleges, a representation by a Customer Service manager that Complainant's request would be granted if supported by a majority of households. Complaint at 3.

Complainant now requests that the Commission enter a decision and report recommending that the Borough of Throop be granted the exclusive ZIP Code of 18511. Complaint at 4.

The Postal Service hereby moves that the complaint filed in this docket be dismissed, for several reasons.¹ First, Complainant's allegations concern operational matters placed by Congress within the exclusive discretion of the Postal Service, and outside the Commission's jurisdiction. Second, Complainant has presented only an individual, localized service issue.

Third, Complainant has focused on only one means of addressing the alleged ZIP Code problem, the creation of a new ZIP Code. The Postal Service must manage the supply of such ZIP Codes very carefully in order to maintain its capability of providing "prompt, reliable and efficient services". 39 U.S.C. § 101 (a). There simply are not enough 5-digit ZIP Codes to assign one exclusively to every municipality. However, complainant has been told at least since 1995 of another option, a request seeking realignment of ZIP Codes. Complainant has consistently chosen not to exercise this option, despite the possibility that this option could include all Throop addresses within one ZIP Code.

¹ The Postal Service is filing its Answer to the complaint in a separate pleading today.

ARGUMENT

In Docket No. **C99-1**, the Commission summarized the standards that it applies to complaints filed under § 3662:

By its terms, the complaint procedure provided in § 3662 is available to **two** categories of persons: (1) interested parties who believe the Postal Service is charging rates not in conformity with the policies set out in Title 39; and (2) interested parties who believe that they are not receiving postal service in conformity with the policies in Title 39. The second category is restrictive, in that an interested party's complaint must be directed to a service or services it is receiving (or allegedly should be receiving), rather than some generalized complaint about postal service.

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Once a qualifying complaint has been lodged, § 3662 commits to the Commission's discretion a choice whether to hold hearings on the complaint, or not. Generally, the Commission has exercised this discretion on a case-by-case basis. However, early in its institutional history the Commission adopted a rule to guide the discretionary exercise, which states:

The Commission shall entertain only those complaints which clearly raise an issue concerning whether or not rates or services contravene the policies of the [Postal Reorganization] Act; thus, complaints raising a question as to whether the Postal Service has properly applied its existing rates and fees or mail classification schedule to a particular mail user or with regard to an individual, localized or temporary service issue not on a substantially nationwide basis shall generally not be considered as properly raising a matter of policy to be considered by the Commission.

39 C.F.R. § 3001.82. While the Commission has not used this regulation to bar absolutely any consideration of individual or localized rate **and** service complaints -- especially where the Postal Service allegedly acted in an arbitrary, discriminatory, capricious or unreasonable manner -- it has served as a basis for declining to conduct hearings on controversies that did not raise questions of general postal policy.

Also, the Commission in a recent complaint case on ZIP Code realignments (Docket No. **C99-3**) concluded that:

the alteration of ZIP Code boundaries is clearly an operational matter within the exclusive jurisdiction of Postal Service management, in compliance with the policies set forth in Title 39.

Order No. 1264 at **9-10**.²

Application of these standards to the instant Complaint directly supports dismissal. The Complaint involves “an individual, localized, or temporary service issue not on a substantially nationwide basis” (39 C.F.R. 53001.82). The complaint does not challenge the Postal Service’s nationwide approach to ZIP Code assignments, but rather reflects complainant’s wish for a different outcome in its specific **instance**.³

In formulating the Postal Reorganization Act, moreover, Congress did not intend to convey to any entity other than the Postal Service the authority to manage the details of ZIP Code administration or other matters necessary to establish, maintain or refine the mail delivery system. The Complaint thus does not fall within the scope of 39 U.S.C. § 3662 or any other grant of jurisdiction to the Postal Rate Commission!

² The assignment of a new five-digit ZIP Code exclusive to Throop would necessarily involve the alteration of ZIP Code boundaries.

³ As discussed in the Postal Service’s Answer, the assertion by a Postal Service employee that a majority vote by Throop’s residents would result in the assignment of a new ZIP Code does not reflect nationwide Postal Service policy.

⁴ The Commission is undoubtedly aware that ZIP Code administration is an ongoing administrative function, with ZIP Code assignments being changed on almost a daily basis. If such decisions were to be subjected to Commission review, one could expect a large number of such complaints, with a substantial effect on ongoing **postal** operations.

Finally, the complaint fails to raise a matter of policy to be considered by the Commission under 39 U.S.C. § 3662. Instead, complainant seeks to use the complaint process to obtain the Commission's opinion about the assignment of a new ZIP Code, 18511, for the Borough of **Throop**.⁵

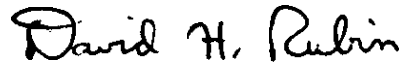
For all these reasons, the complaint should be dismissed.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

By its attorneys:

Daniel J. Foucheaux
Chief Counsel, Ratemaking



David H. Rubin

Kenneth N. Hollies
Attorneys

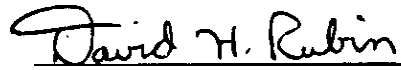
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⁵ In fact, as discussed above, the complaint presents an incomplete picture of the Postal Service's options for assigning ZIP Codes, since complainant has not indicated any interest in an alternative approach, that of realigning existing ZIP Codes.

CERTIFICATE OF SERVICE

I hereby certify that, in accordance with section 12 of the Rules of Practice, I have this day served the foregoing document upon:

Louis A. Cimini, Esquire
Solicitor for the Borough of Throop
Sanderson and Charles Streets
Throop, Lackawanna County, Pennsylvania 18512



David H. Rubin

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